



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2014-0367]

RIN 1625-AA09

Drawbridge Operation Regulation; Darby Creek, Essington, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating regulation that governs the Conrail railroad bridge over Darby Creek in Essington, PA. The bridge owner, Conrail, is modifying the existing remote operating system which controls the bridge operations. Cameras will be installed and the remote operating site will move from its current location in Delair, NJ to Mt. Laurel, NJ. Train crews will no longer be required to stop and check the waterway for approaching vessel traffic prior to initiating a bridge closure, and mariners requesting an opening for the bridge will have to contact the new remote location.

DATES: Comments and related material must be received by the Coast Guard on or before [Insert date 45 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2014-0367 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments. To avoid duplication, please use only one of these methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mrs. Jessica Shea, Fifth Coast Guard District Bridge Administration Division, Coast Guard; telephone 757-398-6422, e-mail jessica.c.shea2@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations

Conrail	Consolidated Rail Corporation
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
§	Section Symbol
U.S.C.	United States Code

A. Public Participation and Request for Comments

We encourage you to participate in this proposed rulemaking by submitting comments and related materials. All comments received will be posted, without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this proposed rulemaking (USCG-2014-0367), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (<http://www.regulations.gov>), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been

received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number USCG-2014-0367 in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-0367) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West

Building, 1200 New Jersey Avenue SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the methods specified under ADDRESSES. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Basis and Purpose

The bridge owner, Conrail, requested a change to 33 CFR § 117.903 due to their intent to modify the current sensor equipment on site at their bridge across Darby Creek and to relocate the remote operation station to a new location. The proposed regulation changes will change two aspects of the

bridge operation. Specifically, the location of the remote operator and the installation of cameras to verify whether any vessels are transiting the waterway before a bridge closure is initiated. This proposed rule will not change the operating schedule of the bridge.

The scope of the waterway inspection is different between the current on-site train crewmember inspection process and the range of the proposed camera installation. There is also a difference in the time it takes between the inspection and the initiation of the bridge closure operations. Currently the regulation requires an on-site train crewmember to conduct an inspection of the waterway for vessels by stopping the train approximately 200 feet north of the bridge site when approached from the north and 300 feet south of the bridge site when approached from the south. Once the train is stopped, the train crewmember walks to the bridge site and physically looks up and down the channel. The time it takes to stop the train, walk to the bridge, conduct the inspection, walk back to the train, and re-start the train takes 15-20 minutes. The proposed regulation allows the remote operating station to inspect the waterway with cameras without first stopping the train which permits a more efficient operating system.

The closer the vessels are to the bridge, the more likely it is that the train crewmember will see them using the process required by the current regulation. Under the proposed regulations, the camera inspection of the waterway has the capability to zoom up and down stream allowing for easier detection of a smaller vessel approaching the bridge. After inspection of the waterway, using the cameras, the bridge closing operations would then occur from a remote location at the Mt. Laurel remote operating station.

Currently, the bridge is in the open to navigation position between April 1 and October 31 and operated by the bridge controller at the remote operating station in Delair, NJ. The shift from the Delair, NJ to the Mt. Laurel, NJ operating station enables Conrail to consolidate its control of the train line and Darby Creek Bridge. By controlling the track as well as the bridge operating mechanism at the Mt. Laurel station, the remote operator has access to more information regarding the anticipated arrival time for when the trains will be at the bridge site. Information such as train speed and location directly contribute to when the bridge will need to be closed. The proposed shift of the remote operating location to the Mt. Laurel location may shorten the duration of the bridge closures due to the higher

accuracy of information on train speed and anticipated arrival time at the bridge site.

The average tidal range for Darby Creek is 5 feet. Currents run on average between 1-2 knots. The actual depth at the bridge ranges between 15 and 20 feet. Darby Creek is used by several recreational vessels during the summer boating season. There is no commercial vessel traffic on Darby Creek.

From April 1 to October 31, the bridge is left in the open to navigation position and will only be lowered for the passage of train and maintenance. Train activity in this location requires the bridge to close to navigation four times a day Monday thru Friday. On Saturday and Sunday, the bridge is used twice each day.

From November 1 through March 31, the bridge is in the closed to navigation position but will open if 24 hours notice is given.

C. Discussion of Proposed Rule

Under the proposed regulation, the responsibility to conduct a visual examination of the waterway to confirm whether or not any vessels are present will shift from the train crew to the Mt. Laurel remote operating station. The train crew will not be required to stop and check the waterway prior to the remote operating station closing or opening the bridge. A new requirement for the remote operating station is

being proposed that mandates they use cameras to confirm whether any vessels are navigating Darby Creek prior to closing the bridge

From the controls at the Mt. Laurel remote operating station, the timeframe to initiate the bridge closure is not more than 15 minutes before a train will arrive at the bridge location. The system currently in place at the Delair remote operating system operates with a similar timeframe. At the Mt. Laurel remote operating station, the cameras will be used continuously during the bridge closure operations to monitor the waterway for the presence of vessels. The current system does not have the capability to continuously visually monitor the waterway.

The bridge is currently being operated remotely. The location of the remote operation will move from its current site in Delair, NJ to Mt. Laurel, NJ. Under the proposed regulation, the bridge will continue to remain in the closed to navigation from November 1 through March 31. During this timeframe, the bridge will open if 24 hours notice is given. Shifting the remote operating location to Mt. Laurel also changes the phone number to request an opening to (856) 231-2282. This telephone number will be manned 24 hours a day throughout the year.

Under the current regulation, the remote operating site monitors infrared sensors. These sensors will continue to be used as a means to detect vessel traffic. The sensor protocol will be amended to include the camera system as part of the equipment failure protocols. The protocol for actions in the event of a sensor failure or detection of an obstruction in the channel is not changed by the proposed regulation.

The requirement for the owner to provide a vertical clearance gage for waters discharging into the Atlantic Ocean south of Delaware Bay is stated in 33 CFR § 117.47. Since this requirement is already stated it is not necessary to restate it in 33 CFR § 117.903 (a)(1) and will be removed from that regulation. The Coast Guard will still require the bridge owner to maintain two board gages on the bridge such that they are plainly visible to the operators of vessels approaching the bridge either up or downstream, as described in 33 CFR § 118.160.

The description of the flashing lights and sound signals which indicate bridge movement are not being changed by this regulation. The bridge will still use flashing green and red lights along with sounding the horn to notify waterway users that the bridge is changing position.

D. Regulatory Analyses

We developed this proposed rule after considering

numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The changes proposed by this NPRM impact the methods used to operate the drawbridge. There are no changes proposed to the drawbridge operating schedule.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C.

605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons. There are no changes proposed to the drawbridge operating schedule. Vessels that can safely transit under the bridge may do so at any time.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a

State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule

promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise §117.903 paragraph(a) to read as follows:

§ 117.903 Broad Creek

(a) The draw of the Conrail Railroad Bridge, mile 0.3, at Essington, will operate as follows:

(1) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in §

117.31(b). However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, the train may continue across the bridge and must clear the bridge interlocks before stopping.

(2) From April 1 through October 31, the draw shall be left in the open position at all times and will only be lowered for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(3) The bridge will be operated remotely by the South Jersey Train Dispatcher located in Mt. Laurel, NJ.

(4) The bridge will be equipped with cameras and channel sensors to visually and electronically ensure the waterway is clear before the bridge closes. The video will be located at the remote operating location in Mt. Laurel, NJ. The channel sensors will be a direct input to the bridge control system.

(5) While the Conrail Railroad Bridge is moving from the full open to the full closed position, the off-site bridge/train controller will maintain constant surveillance of the video and navigational channel using channel sensors to ensure no conflict with maritime traffic exists. In the event of video failure the bridge will remain in the full open position. In the event of failure or obstruction of the infrared channel sensors, the bridge will automatically stop closing and the

South Jersey Train Dispatcher will return the bridge to the open position.

(6) When the draw cannot be operated from the remote site, a bridge tender must be called to operate the bridge in the traditional manner. Personnel shall be dispatched to arrive at the bridge as soon as possible, but not more than one hour after malfunction or disability of the remote system.

(7) The Conrail Railroad channel traffic lights will change from flashing green to flashing red anytime the bridge is not in the full open position.

(8) During downward span movement, the channel traffic lights will change from flashing green to flashing red, the horn will sound two times, followed by a pause, and then two repeat blasts until the bridge is seated and locked down.

(9) When the rail traffic has cleared, the off-site bridge and train controller at Mt. Laurel will sound the horn five times to signal the draw of the Conrail Railroad Bridge is about to return to its full open position.

(10) During upward span movement, the horn will sound two times, followed by a pause, and then sound repeat blasts until the bridge is in the full open position. In the full open position, the channel traffic lights will then turn from flashing red to flashing green.

(11) From November 1 through March 31, the draw shall open on signal if at least 24 hours notice is given by telephone at (856) 231-2282. Operational information will be provided 24 hours a day by telephone at (856) 231-2282.

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Dated: July 17, 2014

Stephen P. Metruck
Rear Admiral, United States Coast Guard
Commander, Fifth Coast Guard District

***[FR Doc. 2014-18267 Filed 07/31/2014 at 8:45 am; Publication
Date: 08/01/2014]***